IN THE

Supreme Court of the United States

OCTOBER TERM—1935

No. 838.

FREDERICK L. MOREHEAD, as the Warden of the City Prison of the Borough of Brooklyn, *Petitioner*,

v.

PEOPLE *ex rel.* JOSEPH TIRALDO, *Respondent*.

BRIEF AS AMICI CURIAE

On behalf of the National Woman's Party, National Association of Women Lawyers, Bindery Women's Union, Local No. 66 of the International Brotherhood of Bookbinders, Brooklyn-Manhattan Transit Women's League, Business Women's Legislative Council of California, and Women's Equal Opportunity League of New York.

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Women's Equal Opportunity League of New York.

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SUMMARY OF ARGUMENT.

The judgment of the Court of Appeals that the New York Minimum Wage Law for women is an unconstitutional interference with the liberty of contract guaranteed by the Fourteenth Amendment should be affirmed.

Under the decisions of this Court the right to buy or sell labor in any lawful pursuit is of the essence of the liberty guaranteed by the Constitution. The liberty of women is not of less degree or quality than the liberty of men. The challenged statute is invalid because it strikes at the heart of freedom of contract, an indispensable part of the liberty assured by the Constitution. The mere restriction of liberty or of property rights cannot of itself be called public welfare and treated as an object of the police power since such restriction is the very thing forbidden by the Constitution.

Time and again this Court has said that the fixing of wages as between employer and employee in private em-

ployments is beyond the legislative power. But even if wage-fixing be within this power, still the statute is invalid as it is arbitrary and discriminatory, there being no reason why its operation should apply to women and the employers of women and exclude men and their employers. As to every occupation where a statutory board has fixed a wage, women can not sell their labor nor employers buy it except at prices at or above the level set by the board. Men may work for any wages they please, or at least for the prevailing competitive wage. So men wage earners have freedom which is denied by the statute to women wage earners though both classes may be engaged in the same kind of labor, and even serving the same employer. Likewise, men's employers have freedom to purchase labor which the statute denies to women's employers and payment of wages less in amount than that fixed by a statutory board is made a crime on the part of women's employers but is no offense at all on the part of employers of men. The effect of the law is to promote unfair competition between men and women workers and to drive women out of employment. The statute submerges the intendment of the Fourteenth Amendment that no impediment be interposed to the pursuits of anyone except as applied to the same pursuit by others under like circumstances, and that no greater burdens be laid upon one than are laid upon others in the same calling and condition.

Accordingly, we will endeavor to show that

I. The decision of the Court of Appeals holding the New York Minimum Wage Law for women invalid is in accord with the applicable decisions of this Court.

II. The New York Minimum Wage Law for Women is not within the police power of the State.

III. There is nothing about the New York Minimum Wage Law for women to justify a ruling different from that in *Adkins* v. *Children's Hospital*, 261 U. S. 525.

IV. The application of the Minimum Wage Law to women and their employers *only* does not bring it within the limits of the Constitution.

I.

THE DECISION OF THE COURT OF APPEALS HOLDING THE NEW YORK MINIMUM WAGE LAW FOR WOMEN INVALID IS IN ACCORD WITH THE APPLICABLE DECISIONS OF THIS COURT.

It is settled that contracts of personal employment are a part of the liberty of men and women protected under the Fifth and Fourteenth Amendments to the Constitution. *Adair* v. *United States*, 208 U. S. 161; *Adkins* v. *Children's Hospital*, 261 U. S. 525. In *Coppage* v. *Kansas*, 236 U. S. 1, 14, this Court said:

> "Included in the right of personal liberty and the right of private property—partaking of the nature of each—is the right to make contracts for the acquisition of property. Chief among such contracts is that of personal employment, by which labor and other services are exchanged for money or other forms of property. If this right be struck down or arbitrarily interfered with, there is a substantial impairment of liberty in the long-established constitutional sense. The right is as essential to the laborer as to the capitalist, to the poor as to the rich; for the vast majority of persons have no other honest way to begin to acquire property, save by working for money."

In *Adkins* v. *Children's Hospital*, *supra*, this Court had under consideration an act of Congress authorizing the fixing of minimum wage standards for women and children in any occupation in the District of Columbia, such standards to be based upon what a board and its advisers might find to be an adequate wage to meet the necessary cost of living for workers in each particular calling and to maintain them in good health and protect their morals. The

legislation, so far as it affected women, was held by this Court to be "simply and exclusively a price-fixing law" and invalid because authorizing an unconstitutional interference with the liberty of contract in respect of terms of private employment. Later this Court affirmed judgments holding unconstitutional the Arizona and Arkansas minimum wage laws for women. *Murphy* v. *Sardell*, 269 U. S. 530. *Donham* v. *West-Nelson Mfg. Co.*, 273 U. S. 657. Thus in the three cases last cited the precise question now before this Court—the constitutionality of laws to fix minimum wages for women in private employments—was determined. The Court below in this case rightly regarded the *Adkins* decision as controlling.

This Court has consistently maintained that wage-fixing between employer and employee in private business is beyond the legislative power.

In *Wolff* v. *Court of Industrial Relations*, 262 U. S. 522, a statute of Kansas sought to compel employer and employee to submit wage controversies to state arbitration, and to require the employer to pay the wages so fixed Said the Court respecting the wage fixing:

> "We think the Industrial Court Act, in so far as it permits the fixing of wages in plaintiff in error's packing house, is in conflict with the Fourteenth Amendment and deprives it of its property and liberty of contract without due process of law."

In *Ribnik* v. *McBride*, 277 U. S. 350, 357, the Court below upheld a state statute as empowering the Commissioner of Labor to fix and limit the charges to be made by a person conducting an employment agency. This Court held the statute invalid as price-fixing legislation contravening the due process of law clause of the Fourteenth Amendment. Mr. Justice Sutherland, for the Court, said:

> "Under the decisions of this Court it is no longer fairly open to question that, at least in the absence of

> a grave emergency, . . . the fixing of prices for food or clothing, of house rental or of wages to be paid, whether minimum or maximum, is beyond the legislative power. And we perceive no reason for applying a different rule in the case of legislation controlling prices to be paid for services rendered in securing a place for an employee or an employee for a place."

Mr. Justice Hughes in *Near* v. *Minnesota*, 283 U. S. 697, 707 (a case dealing with liberty of the press), states for the Court:

> "So, while liberty of contract is not an absolute right, and the wide field of activity in the making of contracts is subject to legislative supervision (*Frisbie* v. *United States*, 157 U. S. 161, 165), this Court has held that the power of the State stops short of interference with what are deemed to be certain indispensable requirements of the liberty assured, notably with respect to the fixing of prices and wages."

The petitioner relies upon the case of *Nebbia* v. *New York*, 291 U. S. 502, to support the statute. In that case this Court held the milk business in New York to be affected with a public interest sufficient to justify the regulation of prices. Certain peculiar aspects of the milk business were the foundation of the finding, notably the relationship to public health which had made it a subject of drastic regulation for many years. Mr. Justice Roberts pointed out in the opinion that it was the function of the Court to determine "in each case" whether the regulation was "a reasonable exertion of the governmental authority" (page 536). There is nothing in that decision that would indicate that all businesses employing women are for that reason affected with a public interest. Such a holding would permit the State to control business to an extent unprecedented in liberal government. The mere working for a living in an ordinary occupation cannot itself be affected with a public interest or classed as a "business" in any sense.

To summarize, the deprivation of liberty imposed by the statute exceeds constitutional limits under the decisions of this Court. The attributes of liberty under the Constitution belong to women as to men. We borrow the language of the Court of Appeals of the District of Columbia:

> "The constitutional limitations . . . involve fundamental principles of human rights reserved to the whole people and not to any favored class of citizenship. They are for the protection alike of the rich and the poor, the strong and the weak, the high and the low, and may not, either by legislative or judicial fiat, be used to extend special protection or privileges to any particular class of citizens. No reason is apparent why the operation of the law should be extended to women to the exclusion of men, since women have been accorded full equality with men in the commercial and political world. Indeed, this equality in law has been sanctioned by constitutional amendment; and so fixed has the tendency in this direction become established in English-speaking lands, that the opportunity for official and business preferment, upon complete equality with men, is limited only by the scope of her aspirations." Children's Hospital v. Adkins, 284 Fed. 613, 618.

II.

THE NEW YORK MINIMUM WAGE LAW FOR WOMEN IS NOT WITHIN THE POLICE POWER OF THE STATE.

The authority of a state to enact laws to promote the health, safety, morals and general welfare of the people is necessarily conceded, but "the limits of this sovereign power must always be determined with appropriate regard to the particular subject of its exercise." *Near* v. *Minnesota*, 283 U. S. 697, 707.

In the law in question the *particular subject* of the alleged exercise of the police power is the restriction of liberty—the liberty of contract—the very thing inhibited

by the Constitution. Moreover, it is unlimited as to the scope of its operation since it applies to all occupations except domestic service and work on a farm.

Liberty safeguarded by the Fourteenth Amendment cannot be invaded merely because a state legislature deems liberty of contract a menace and its deprivation to be in the interest of the public welfare. In other words, the police power cannot be made supreme over the Constitution by a statutory declaration that any action desired to be taken is an exercise of that power, and hence within the discretion of the legislature.

In *Near* v. *Minnesota, supra,* a statute declared one who engages in regularly publishing a malicious, scandalous and defamatory newspaper guilty of a nuisance and authorized suits to enjoin such newspaper from future violations. It was claimed that the statute was passed in the exertion of the State's power of police for the preservation of the peace and good order of the State. The authorized proceedings in restraint of publication were held inconsistent with the conception of the liberty of the press under the Fourteenth Amendment. Said the Court in part (p. 721):

> "Equally unavailing is the insistence that the statute is designed to prevent the circulation of scandal which tends to disturb the public peace and to provoke assaults and the commission of crime. Charges of reprehensible conduct, and in particular of official malfeasance, unquestionably create a public scandal, but the theory of the constitutional guaranty is that even a more serious public evil would be caused by authority to prevent publication. . . . There is nothing new in the fact that charges of reprehensible conduct may create resentment and the disposition to resort to violent means of redress, but this well-understood tendency did not alter the determination to protect the press against censorship and restraint upon publication. . . . The danger of violent reactions becomes

> greater with effective organization of defiant groups resenting exposure, and if this consideration warranted legislative interference with the initial freedom of publication, the constitutional protection would be reduced to a mere form of words."

The case of *Wolff* v. *Court of Industrial Relations*, 262 U. S. 522, involved a statute of Kansas providing among other things for the submission of wage controversies between employer and employee in the meat packing industry to state arbitration and requiring the employer to pay the wage so fixed. Notwithstanding the declaration of the statute that the industry was affected by a public interest and that the statute was for the protection of public peace, health and general welfare, this Court recognized the statute for what it was—an unlawful restriction upon the liberty of contract between employer and employee in a private business.

It is asserted that the statute in question is one which is reasonable to meet the evils at which it is aimed. *But the rule that a State may recognize degrees of evil and adapt its legislation accordingly, applies to matters concerning which the state has authority to legislate.* In *Truax* v. *Raich*, 239 U. S. 33, 41, an Arizona statute made it a criminal offense for an employer having more than five employees to employ less than eighty per cent qualified electors or native born citizens of the United States. It was sought to justify this act as an exercise of the power of the State to make reasonable classifications in legislating to promote the health, safety, morals, and welfare of those within its jurisdiction. It was contended that the employment of aliens unless restrained was a peril to the public welfare. The Court said in part:

> "It requires no argument to show that the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of

> the Amendment to secure. . . . If the restriction to twenty per cent now imposed is maintainable the State undoubtedly has the power if it sees fit to make the percentage less. We have nothing before us to justify the limitation to twenty per cent, save the judgment expressed in the enactment, and if that is sufficient, it is difficult to see why the apprehension and conviction thus evidenced would not be sufficient were the restriction extended so as to permit only ten per cent of the employees to be aliens or even a less percentage, or were it made applicable to all businesses in which more than three workers were employed instead of applying to those employing more than five. We have frequently said that the legislature may recognize degrees of evil and adapt its legislation accordingly . . .; but underlying the classification is the authority to deal with that at which the legislation is aimed. The restriction now sought to be sustained is such as to suggest no limit to the State's power of excluding aliens from employment if the principle underlying the prohibition of the act is conceded. No special public interest with respect to any particular business is shown that could possibly be deemed to support the enactment, for as we have said it relates to every sort. The discrimination is against aliens as such in competition with citizens in the described range of enterprises and in our opinion it clearly falls under the condemnation of the fundamental law."

It is contended that women are not upon a level of equality in bargaining with their employers and that the statute is in furtherance of freedom of contract. The same claim was made with reference to the statute considered in *Coppage* v. *Kansas*, 236 U. S. 1, 5. There the statute made it a crime for an employer to require an employee to agree not to become or remain a member of any labor organization during his employment. The evidence was that it would have been to the advantage of the employee from a pecuniary point of view and other-

wise to have been permitted to retain union membership and at the same time to remain in the employ of the company. After referring to several cases in which the police power was properly exercised for the preservation of the public health, safety, morals or general welfare, the Court pointed out that there was no purpose in the statute having reference to health, safety, morals, or public welfare, beyond the supposed desirability of leveling inequaliites of fortune by depriving one who has property of some part of what is characterized as his "financial independence." Said the Court (pp. 18, 19):

> "In short, an interference with the normal exercise of personal liberty and property rights is the primary object of the statute, and not an incident to the advancement of the general welfare. But, in our opinion, the Fourteenth Amendment debars the States from striking down personal liberty or property rights, or materially restricting their normal exercise, excepting so far as may be incidentally necessary for the accomplishment of some other and paramount object, and one that concerns the public welfare. *The mere restriction of liberty or of property rights cannot of itself be denominated 'public welfare,' and treated as a legitimate object of the police power; for such restriction is the very thing that is inhibited by the Amendment.*" (Italics ours.)

In the *Adkins* case the Court of Appeals of the District of Columbia differentiated between a law fixing the price of labor and enactments within the police power for the public health, safety, morals or welfare as follows:

> "The public safety and welfare may justify the legislature in limiting the hours of labor in mines and other hazardous industries, and require safeguards to be employed in conducting dangerous occupations. Such regulations, however, affect only the mode of operation and do not invade the domain of prices. They are easily distinguished from the purely economic question of how much the employer shall pay

the employee for his services. In one case the business conducted is so inherently dangerous that its regulation, as to methods of operation, becomes a valid exercise of the police power. The public health and safety demand, not that the business be confiscated, not that proprietorship therein be curtailed or limited, not that the economic control thereof may be in the least affected, but that the business be so conducted that the public health and safety may not be seriously endangered.

"Legislation tending to fix the prices at which private property shall be sold, whether it be a commodity or labor, places a limitation upon the distribution of wealth and is aimed at the correction of the inequalities of fortune which are inevitable under our form of government due to personal liberty and the private ownership of property. These principles are embodied in the Constitution itself, and to interfere with their freedom of operation is to deprive the citizen of his constitutional rights." Children's Hospital v. Adkins, 284 Fed. 613, 616.

This Court in *Frisbie* v. *United States*, 157 U. S. 160, 166, cites instances of the valid exercise of the police power and then states:

> "The possession of *this power* by government in no manner conflicts with the proposition that, generally speaking, *every citizen has a right freely to contract for the price of his labor,* services, or property." (Italics are ours.)

If a *minimum* wage for women alone is justifiable because a legislative fiat says their bargaining power is not on a level of equality with their employers it is difficult to see why a *maximum* wage for women may not be fixed if high wages are declared by the legislature to be destructive of industry, and against public welfare. If there is no constitutional objection to a *minimum* wage law applying to women alone, presumably there would be none applying to a *maximum* wage for women alone if the legis-

lature should conclude that women may be specially classified as requiring or needing less than men or having fewer dependents or possessing greater wealth than men. Section 564 of the law in question places a burden on every employer of women in the state regardless of whether or not employment conditions in his industry or business are good or bad. He must keep a true and accurate record of all women employed, the hours worked by each, the wages paid to each, and he must furnish upon demand a sworn statement of the same. No such burden is imposed upon the employers of men. If a law creating these burdens and fixing a minimum wage for women is valid, then there would seem to be no reason why the legislature may not go further and require employers of women to provide transportation for women workers to and from work on the theory that crowded conveyances are harmful to the health and maternal function of women, and that the wages paid are less than they ought to be.

There is no liberty more fundamental than the right to work subject only to those restraints imposed upon others in like conditions and calling. To take from women freedom to contract to work for wages for which men may work in practically every occupation in an entire state is to hold that the right to labor for pay is primarily the prerogative of the male, and that women are wards or serfs who are only allowed to work for special wages under special supervision and subject to special Governmental regulations. Such a conclusion is at variance with our system of law which is based on the fundamental principle of equality. *Truax* v. *Corrigan*, 257 U. S. 312, 332.

III.

THERE IS NOTHING ABOUT THE NEW YORK MINIMUM WAGE LAW FOR WOMEN TO JUSTIFY A RULING DIFFERENT FROM THAT IN ADKINS v. CHILDREN'S HOSPITAL, 261 U. S. 525.

The effect of the petition to overrule the decision of the Court of Appeals of New York in this case is to ask this Court to reconsider its decision in *Adkins* v. *Children's Hospital, supra.*

1. The factual backgrounds are fundamentally the same.

2. There is no substantial difference between the provisions of the two statutes.

3. The reasons given in the Adkins case for holding the District of Columbia law unconstitutional apply with equal force to the New York law.

4. The Court of Appeals of New York has held that there is no essential difference between the two *statutes.*

1. The Factual Backgrounds are Fundamentally the Same.

The situation considered by the New York Legislature is described briefly in Section 550 of the Act. Every fact there mentioned was urged upon this Court in the arguments of Government counsel for sustaining the District of Columbia statute in 1923.

> "Section 550. The employment of women and minors in trade and industry in the State of New York at wages unreasonably low and not fairly commensurate with the value of services rendered is a matter of grave and vital public concern. Many women and minors employed for gain in the State of New York are not as a class *upon a level of equality in bargaining* with their employers in regard to minimum fair wage standards and '*freedom of contract*' as applied to their relations with their em-

ployers is illusory. Since a very large percentage of such workers are *obliged from their week to week wages to support themselves* and others who are dependent upon them in whole or in part they are, by reason of their necessituous circumstances, forced to accept whatever wages are offered them. Judged by any reasonable standard, wages are in many cases fixed by chance and caprice and the wages accepted are often found to bear no relation to the *fair value* of the service rendered. Women and minors employed for gain are *peculiarly subject to the overreaching of inefficient, harsh or ignorant employers* and under unregulated competition where no adequate machinery exists for the effective regulation and maintenance of minimum fair wage standards, the standards such as exist tend to be set by the least conscionable employers. In the absence of any effective minimum fair wage rates for women and minors, the constant lowering of wages by unscrupulous employers constitutes a serious form of *unfair competition* against other employers, reduces the purchasing power of the workers and threatens the *stability of industry*. The evils of oppressive, unreasonable and unfair wages as they affect women and minors employed in the State of New York are such as to render imperative the exercise of the police power of the state for the protection of industry and of women and minors employed therein and of the public interest of the community at large in their health and well-being and in the prevention and the deterioration of the race. In the considered judgment of the legislature this article is constitutional." *Laws of New York*, 1933, ch. 584, Art. 19, Sec. 550. (Italics are ours.)

The *weakness of the bargaining power* of women was referred to as "notorious" in the brief submitted by the attorneys for the District of Columbia in the *Adkins* case, *Transcript of Records and file copies of Briefs*, Vol. 115, October Term 1922, p. 912 of Brief for Appellants.

The reference to *"freedom of contract" being illusory*

in the statute is very similar to language used in the brief referred to above on page lii where a sub-heading is entitled

> "Seventh.—The so-called 'liberties' of which the plaintiffs claim to have been deprived were merely fanciful and theoretical and not substantial. Therefore it was not 'arbitrary, wanton' or a 'spoliation' for Congress to allow great public interest to prevail over them."

And in the course of the discussion of this point, counsel said: "Similarly the 'liberty' which Lyons asserts is fictitious, unreal and against her own interest" (p. liv).

That women worked in 1923 because they *were obliged to support themselves* was also brought out clearly in the Government brief in the *Adkins* case. Beginning on page 872 of the brief is found a sub-division entitled:

"(4) The Bulk of Wage-earning Women Must Support Themselves."

This contains information about conditions in the District of Columbia and other places. Also in the brief on the Oregon Minimum Wage cases used in the *Adkins* case we find an argument concerning what is termed the "pin money fallacy". *Transcript of Records and File Copies of Briefs*, Vol. 116, October Term 1922, Briefs in Oregon Minimum Wage Cases, p. 290.

That women frequently did not receive the *fair value* of their services in wages was pointed out several times in these briefs with the assumption always that the cost of maintaining a worker is a measure of the value of the work. The sub-heading on the subject in the Brief for Appellants is found on page xl of the brief. On page xxxviii it is pointed out that women receive less than men for the same work as an indication that they do not receive fair value. Similar arguments are found in the Brief on the Oregon Minimum Wage Cases referred to above.

That *women were peculiarly subject to the overreaching of harsh employers* in 1923 was claimed in the Government's brief on page xlv where it is stated:

> ". . . Congress . . . may fill the gaps caused by ignorance or helplessness of women workers and the ignorance or avarice of some employers. . . ."

It would seem that this particular disadvantage of women is not so marked in New York today as it was in 1923. This is indicated by Chart V in the factual brief submitted by petitioner here. It is opposite page 30 of that brief and shows that the difference between the wages of men and women has lessened between 1923 and 1935, and that particularly in the depression years 1929 to 1934 women's wages did not drop as abruptly as did men's.

The fact that the lowering of wages by unscrupulous employers constituted even in 1923 a serious form of *unfair competition* against other employers was emphasized in the Government's brief then submitted on page xlv et seq. The sub-heading covering the discussion is entitled:

> "Fourth,—It is not arbitrary, wanton or spoliative for Congress to require the employer to obtain a license from the Board before he can buy a woman's labor at less than cost, because that is a reasonable means of preventing cutthroat and unfair competition between manufacturers."

The assertion is made on page xlvii that:

> "It is impossible for the state to remain neutral in a contest between men who desire to deal fairly and those who desire to deal unfairly; The state must choose between encouraging unfair conduct by keeping hands off or discouraging it by insisting upon fair play."

Similar arguments are advanced in the brief in the Oregon Minimum Wage Cases. *Transcript of Records*

and File Copies of Briefs, Vol. 116, October Term 1922, p. A35, p. 330-353.

The need for the *protection of industry as a whole* by minimum wage legislation was an almost constant theme in the Government's briefs in the earlier cases. The District of Columbia claimed that the prevention of the employment of women at "below cost" was a reasonable exercise of power to foster the productivity of industry. Benefits to employers generally were discussed in a series of statements beginning on page 334.

In addition to the factual background set out in Section 550 of the statute, petitioner has submitted in a factual brief material which it is claimed was undisputed in the lower courts. The significance of the facts set out is difficult to determine because some of the tables show wages for females from the age of ten years and some from the age of fifteen. With many of the tables, there is no explanation of what ages are included so that it is impossible to ascertain which facts apply to adult women. However, an examination of the outline of the factual brief as given on page iii will show that the facts given are of the same nature as those submitted to this Court in briefs in the *Adkins* case.

There are statistics and reports tending to prove the success of such legislation where it has been in operation (Point VIII Factual Brief) corresponding in some degree to information furnished along the same lines in the *Adkins* brief. *Transcript of Records and File Copies of Brief, supra*, Brief for Appellants pp. 1-541.

There are possibly two factors in the New York situation which differ somewhat from the District of Columbia background. There are, of course, more working women in New York State than there were in the District of Columbia in 1923, but it is shown that the discrepancy in their wages as compared to men's is not so great now as it was in 1923 (Chart V, opposite p. 30 Factual Brief

of Petitioner). The other different factor is the precarious condition of industry claimed to exist in New York today. It is true that many arguments were produced in the *Adkins* case to the effect that Industry would destroy itself if it paid less in wages than the cost of support of the workers, but we must all admit that industry is more hard-pressed in New York today than it was in the District of Columbia in 1923.

This Court has stated:

> "Undoubtedly, the conditions to which power is addressed are always to be considered when the exercise of power is challenged. Extraordinary conditions may call for extraordinary remedies. But the argument necessarily stops short of an attempt to justify action which lies outside the sphere of constitutional authority. Extraordinary conditions do not create or enlarge constitutional power." Schechter Corp. v. United States, 295 U. S. 495, 528.

It is inconceivable that after refusing to sanction minimum wage legislation for women designed to protect their health and morals, this Court would hold such legislation constitutional to prevent "cutthroat" competition.

2. There is no Substantial Difference Between the Provisions of the Two Statutes.

Both laws provide for investigation by conferees, similarly selected, of the wages of women and minors in various occupations, 40 *Stat.* 960 C. 174, Sec. 10; *Laws of New York* 1933, Ch. 584, Art. 19, Sec. 554, and for compulsory adherence to the recomendation when approved by the Wage Board, 40 *Stat.* 960 C. 174, Sec. 12, 18; *Laws of New York* 1933 Ch. 584, Art. 19, Sec. 557, 560, 565. The District of Columbia law which was held unconstitutional set up a standard of minimum wage to be fixed by law which should be "adequate to supply the necessary cost of living to women workers to maintain them in good health and to protect their morals", while the New York

law defines an "oppressive and unreasonable wage" which is to be forbidden by the statute as "a wage which is both less than fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary to health."

It is submitted that the words added in the New York statute do not change in any way the effect of the legislation, because the standard which the wage board is called upon to set up cannot be practically determined. The board is faced with the question as to what is the fair value of a woman's service in the industry it is investigating. By what method is it to measure that value? As a general rule in damage cases or quantum meruit cases in asumpsit, the value of services is measured by customary wages. But of course market value is not to be used here as the employer pays that without coercion. Will it be cost value—the cost of raising a worker to womanhood and educating her sufficiently for the job? If it is to be cost value, shall any amount be deducted for depreciation and obsolescence? Is anything to be deducted for the usefulness of the girl in her home? Is each girl to be considered as a separate problem, or is the board permitted to estimate an average? In a recent case this Court said:

> "To an extent value must be a matter of sound judgment, involving fact data. To substitute for such factors as historical cost and cost of reproduction, a 'translator' of dollar value obtained by the use of price trend indices, serves only to confuse the problem and to increase its difficulty, and may well lead to results anything but accurate and fair. This is not to suggest that price trends are to be disregarded; quite the contrary is true. And evidence of such trends is to be considered with all other relevant factors." West et al, v. Chesapeake & Potomac Telephone Co., 295 U. S. 662, 671-672.

Public Utility Commissions and Courts have encountered

enormous difficulties in determining valuations of rail roads and telephone companies. In the case just referred to,the company, the commission, the District Court, each had a different scheme for determining the value, not one of which was approved by this Court and even this Court was in the end divided as to the significance of the calculations. Inevitably similar difficulties will be encountered whenever market value is ruled out. It is submitted that the determination of the value of the work of individual human beings presents still more complicated factors and the problems will be impossible of solution.

But this law does not contemplate fixing of value in individual cases. Although in the very nature of things the value of services must necessarily vary according to individual capacity, efficiency, training and age; yet this law ignores all that and requires the fixing of a theoretical rate for an entire class and an entire industry which must be enforced on women whose services are worth twice as much as well as upon those who might be cut to much less and who could only secure much less. There is reason to believe that neither the legislators nor the wage boards selected have contemplated calculations based on absolute value. Advocates of minimum wage legislation in 1923 and 1933 assume that labor is worth its cost and by that they mean the cost of the support of the worker, but this is the very standard which was held to be one-sided and too vague for determination, in the previous opinion of this Court. Several times in the briefs in the *Adkins* case it was pointed out that to permit an employer to pay less than a wage sufficient for the maintenance of the worker was to subsidize his business. The same thing has been said here. *Brief on petition for certiorari filed by Ohio* p. 44; *Factual brief for petitioner* p. 39. The report of the Laundry Wage Board (*Factual Brief,* p. 66) indicates that its investigation consisted in determining how near the "living wage" they could place

the minimum standard without destroying the industry. The value of services under hoped for conditions was considered rather than the value under actual conditions.

The great diversity of wages paid in the laundry industry is taken as an indication that some workers do not receive fair value for services. But this situation is no different from that in many markets where there is subtle difference of quality. For example, chocolate creams can be purchased at any price from 20 cents to $2.00 per pound. Ladies manufactured silk dresses may cost anything from $4.98 to $75.00. There is a difference in quality, of course, but it is hard to perceive that it is commensurate with the difference in price.

In the *factual brief* of petitioner, a whole section of sixty-nine pages (Sec. VII pp. 76 to 145) is devoted to a discussion of methods which might be employed to fix group wages on the basis of value of services. A cursory examination of the material will reveal that all of the methods suggested are rather complicated. A more careful examination will reveal that in almost every method described, either market value or cost of living, is an important factor in the calculation. As a matter of fact, most of the material there presented consists of descriptions of various methods of determining the *relative* value of services of various employees in the same establishment.

Section A, Examples (1) and (2) give no hint of the method used to determine the basic value of services. In example (3), both market value and the standard of living are indispensable factors under the names "Trade Union scales", "Labor supply available" and "Standards of living of social group represented in each occupation." Example (4) describes a study in the *relative* value of jobs in certain companies but it is made plain that the "market" is considered in establishing the rates (p. 86). On page 88, it is said:

> "A base, or zone rate is one which will attract and hold with reasonable turnover the willing service of men having the requisite skill to produce the quality product desired, without regard to extra compensation paid as incentive."

Section B (p. 93) consists of descriptions of methods of collective bargaining used in various industries. It is difficult to see what persuasive force this can have in connection with minimum wage laws. But even here, the problem seemed to be in examples (1), (2) and (3) to find a method for determining *relative* value of various employees, base rates of pay having been determined beforehand. In example (4) the element of "purchasing power" and the right of every man to earn a living is admittedly one of the chief considerations in determining a fair wage (p. 104).

In Section C, (p. 107) the instances given show investigation of "facts" by certain committees. The factors to be considered are listed in example (3) on page 108. They include "The scales of wages paid for similar kinds of work in other industries" and "The relation between wages and cost of living.".

Similar analysis of the remaining sections will reveal no method of determining the absolute value of a day's work to the employer in any terms except market value or cost of living. If the market value is the criterion, no minimum wage law is necessary. If cost of living is the criterion, the payment cannot be forced upon the employer at pain of imprisonment or abandonment of business.

3. The Reasons Given in the Opinion in the Adkins Case For Holding the District of Columbia Law Unconstitutional Apply with Equal Force to the New York Law.

The first point made in the opinion in the *Adkins* case was that the same test must be applied to the law as would be applied to a law affecting the employment of adult men. Certainly there is no reason for changing that conclusion thirteen years later with women constantly becoming stronger.

It was mentioned that the law applied to any and every occupation in the District of Columbia without regard to its nature or to the character of the work. This is just as true of the New York statute. In both instances the application of the law is only limited by the requirement of investigation of particular occupations before enforcement of a standard. Both statutes except domestic service *40 Stat.* 960 C 174, Sec. 1; C. 584 *Laws of New York,* Article 19, Sec. 551 (6). No opportunity is given to determine whether the business is sufficiently affected with a public interest to justify regulation of it.

Another objection to the District of Columbia Law was the vagueness of the standard for the guidance of the Board in determining the minimum wage. The Court said:

> "What is sufficient to supply the necessary cost of living for a woman worker and maintain her in good health and protect her morals is obviously not a precise or unvarying sum—not even approximately so. . . . the inquiry in respect of the necessary cost of living and the income necessary to preserve health and morals presents an individual and not a composite question, and must be answered for each individual and considered by herself and not by a general formula prescribed by a statutory bureau." Adkins v. Children's Hospital, supra, p. 555, 556.

It is submitted that the fair value of services is an even less precise and unvarying sum than the cost of living and presents an even more individual question.

Further objection is made by the Court to the fact that the necessities of one party to the contract, the employer, are ignored. We have shown above that this matter is not cured by the additional phrase in the New York law requiring the minimum wage to be at least a fair return for value of services. It should be noted that the necessities of the particular workers who may be forced to find more arduous employment are also ignored. As has been pointed out, the Act specifically excepts domestic service (Section 551 (6)). It requires no great stretch of the imagination to see that with laundry prices rising, people are likely to hire laundresses to work at home and perhaps pay them less than they earned in the commercial plants.

The fact is also brought out in the opinion, that any reasoning which would justify the fixing of a minimum wage by the exercise of the police power might also justify the fixing of a maximum wage by the same power. The reasoning in this connection is just as applicable to the New York law as it was to the District of Columbia law.

And finally the Court held that social justice is best served by the preservation of liberties. This is of course an axiom of our form of government and is as true in 1936 as it was in 1923.

4. The Court of Appeals of New York has Held that there is no Essential Difference Between the Two Statutes.

It is submitted that the construction of the New York Statute by the highest Court of that state should carry great weight here. Justice Holmes has stated, speaking for this Court:

> ". . . no case yet has gone to the length of undertaking to correct the construction of State laws by State courts. The exclusive authority to enact those laws carries with it final authority to say what they mean. The construction of those laws by the Supreme Court of the State is as much the act of the State as the enactment of them by the legislature." Jones v. Prairie Oil Co., 273 U. S. 195, 199-200.

It is true that the holding of unconstitutionality both as to the United States Constitution and the New York Constitution was in deference to an opinion of this Court. But if the Court of Appeals had been of the opinion that the statute of New York had features which should take it out of the *Adkins* ruling, it would not have hesitated to say so. But the Court of Appeals of New York said: "We do not see wherein this act differs materially from the act of Congress ruled upon in Adkins v. Children's Hospital (261 U. S. 525)."

Therefore, it is plain that to reverse the decision in this case, this Court must either change the construction of a New York law by the highest Court of New York or reverse the conclusion reached in the *Adkins* opinion.

IV.

THE APPLICATION OF THE MINIMUM WAGE LAW TO WOMEN AND THEIR EMPLOYERS ONLY DOES NOT BRING IT WITHIN THE LIMITS OF THE CONSTITUTION.

The question "Are women people?" was answered in the affirmative sixty-two years ago by this Court with reference to the Fourteenth Amendment. *Minor* v. *Happersett*, 21 Wall. 162. Yet today the issue is, in effect, whether adult women are entitled to the liberty of contract included in the constitutional guarantee that no person shall be deprived of liberty or property without due

process of law. It is our view that women are entitled to this liberty.

As this Court points out in *Barbier* v. *Connolly*, 113 U. S. 27, 31:

> "The Fourteenth Amendment . . . intended . . . that equal protection and security should be given to all under like circumstances in the enjoyment of their personal and civil rights; that all persons should be equally entitled to pursue their happiness and acquire and enjoy property; . . . that no impediment should be interposed to the pursuits of any one except as applied to the same pursuit by others under like circumstances; that no greater burdens should be laid upon one than are laid upon others in the same calling and condition. . . ."

At the time the Governor of New York approved the questioned statute he vetoed a companion bill known as the "Desmond Bill." The "factual back-ground" relating to women and minors which is contained in the statute is the same as the factual background stated in the vetoed measure with reference to *men and women and children*, the purpose of the vetoed measure being to establish minimum fair wage standards for men and women and minors during the present "serious public emergency." *Senate Bill Nos.* 1868, 2127; *Int.* 1652. There is no reason advanced in support of the minimum wage law for women which does not apply with equal or greater force to men workers whom the law leaves untouched. The evils at which the bill is said to be aimed apply to both men and women. More men are affected by them than women since there are more men workers than women, and consequently more people dependent upon men's earnings than upon women's. It is said that few women are organized and that their bargaining power is weak. It is a matter of common knowledge that of the total number of working men, only a small percentage is organized. Of the private wealth

in this country, more is owned by women than men. According to the statistics of insurance companies, women live longer than men. Much of the factual data supplied in all the minimum wage cases before this Court applies to both sexes. The law is arbitrary and discriminatory in that it singles women out and takes from them freedom to contract for wages for which men may contract. There is no reason why men should be excluded from the law except a mistaken philosophy that men's liberty is more sacred than women's and that attainment of the freedom accorded to others is something of which women are incapable. It is significant in this connection that men's labor organizations strenuously combat minimum wage legislation for *men* as of the essence of slavery itself, but they support such legislation for women. We submit that the statute is not in accord with constitutional guarantees as it is clear that there is no fair reason for the law that would not require with equal force its extension to others whom it leaves untouched. *Yick Wo.* v. *Hopkins*, 118 U. S. 356. *Gulf, Colorado & Santa Fe R. Co.* v. *Ellis*, 165 U. S. 150. *Missouri K. & T. R. Co.* v. *May*, 194 U. S. 267, 269. *Connolly* v. *Union Sewer Pipe Co.*, 184 U. S. 540. *Cotting* v. *Godard*, 183 U. S. 79.

In one case where the inequality concerned the relative treatment of two parties in litigation, this Court said:

> "The State may not say that all white men shall be subjected to the payment of the attorney's fees of parties successfully suing them and all black men not. It may not say that all men beyond a certain age shall be alone thus subjected, or all men possessed of a certain wealth. These are distinctions which do not furnish any proper basis for the attempted classification. That must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never be made arbitrarily and without any such

basis." *Gulf, Colorado & Santa Fe Ry.* v. *Ellis*, 165 U. S. 150, 155.

The fact that the restriction on women's liberty is partial and not total, does not remove the objection to the constitutionality of the statute. *Truax* v. *Raich*, 239 U. S. 33. What this Court said in a recent case seems pertinent here:

> "And if the various administrative bureaus and commissions, necessarily called and being called into existence by the increasing complexities of our modern business and political affairs, are permitted gradually to extend their powers by encroachments, even petty encroachments, upon the fundamental rights, privileges and immunities of the people, we shall in the end, while avoiding the fatal consequences of a supreme autocracy, become submerged by a multitude of minor invasions of personal rights, less destructive but no less violative of constitutional guarantees." *Jones* v. *Securities & Exchange Commission*, *U. S. Law Week*, Vol. 3, No. 32, p. 17, April 6, 1936.

The laws of about sixteen states and various articles, reports and comments are cited by petitioner in support of minimum wage legislation for women. If the statute is constitutional it is not necessary to show any sentiment in favor of it. If it is unconstitutional, it cannot be sustained no matter how many people may desire it. But to whatever extent such considerations are material, we point out that the majority of the states have no minimum wage legislation and that there is considerable sentiment in this country against it. There is in addition organized opposition to minimum wage legislation which restricts women's freedom to contract while preserving that of men.[1]

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[1] Among the organizations that have gone on record as opposed to minimun wage laws for women alone or opposed to all labor legislation applying to women and not to men are: National Woman's Real Estate Association; League of Advertising Women; American Alliance of Civil Service Women; Equal Rights Association; Women's Equal Opportunity League; National

This Court has often said that the right to work for a living in the occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the Amendment to secure. A law such as the one before the Court deprives women of the opportunity given to other workers in the community. Times of economic stress invariably involve the lowering of wages, and keen competition for jobs. A law fixing a minimum wage for women only and thus taking from them the power to contract for wages men are willing to accept obviously renders women ineffective as competitors of men. The woman who is unable to get the fixed wage may

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Association of Women Lawyers; National Woman's Party; Woman's Legislative Council of the State of Washington; Business Women's Legislative Council of California; Business and Professional Women's Club of Delaware; Vermont League of Business and Professional Women; New York State Federation of Business and Professional Women; New Hampshire Federation of Business and Professional Women's Clubs; Business and Professional Women's Council of New York State; Indiana Federation of Business and Professional Women; Telegraph Women of Minnesota; Legislative League of New York; New York State Women's Republican Club; Society for Political Study; Ray Current Events Club; Zonta Club of New York City; St. Paul Business and Professional Woman's Club; Brooklyn League of Business and Professional Women; Zonta Club of Albany; High School Teacher's Association of Los Angeles; Railway Business Women of St. Paul; Business and Professional Club of Alberta Lea, Minn.; Business and Professional Women's Club of Blue Earth, Minn.; The New Yorkers; Business and Professional Women's Club of Crookston, Minn.; Business and Professional Women's Club of Fairmont, Minn.; Business and Professional Club of Fairbault, Minn.; Brooklyn's Women's Bar Association; Zonta Club of St. Paul; Business and Professional Women's Club of Hibbing, Minn.; Business and Professional Women's Club of Montevideo, Minn.; Business and Professional Women's Club of Owatonna, Minn.; Women's Press Club of New York City; Business and Professional Women's Club of Rochester, Minn.; Business and Professional Women's Club of St. Cloud, Minn.; Business and Professional Club of Stillwater, Minn.; Soroptomist Club of New York City; Women's Welfare League of St. Paul; Business and Professional Club of Virginia, Minn.; Business and Professional Club of Wells, Minn.; Woman's Division 1st A. D. Republican Club of King's County; Bindery Women's Union, Local No. 66 of the International Brotherhood of Bookbinders; Business and Professional Women's Club of Winona, Minn.; and Brooklyn-Manhattan Transit Women's League.

suffer a total deprivation of her labor without compensation but a man is permitted to profit by his labor regardless of the amount of his remuneration. Adequate wages are desirable for everyone but it is better to have low wages than no wages at all.

Minimum wage legislation applying to women alone is not unlike that type of economic planning which reduces acreage and kills hogs. The difference is that the necessity of compensating the owners of the acreage or of the hogs is generally recognized by the law-making body, whereas the women who have labor to sell are not assured of any pay for the prevention of its sale.

Reports from state agencies concerned with minimum wage legislation indicate that such legislation handicaps women as to opportunities for employment.[2] Skilled

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[2] The Fifteenth Biennial Report of the Bureau of Labor and the State Welfare Commission of the State of Oregon, 1931-1932, states on page 22:

> "At a meeting of the State Welfare Commission some months later, after the canneries had started to operate, a delegation of working women appeared before the Commission and petitioned them to make a reduction in the minimum wage for women employes in canneries, contending that they were being discriminated against by the canneries, as boys and men could be hired for less than 27½ cents per hour. Many of these petitioners had dependents and they insisted that it was necessary that they be employed. They suggested that the minimum wage be reduced from 27½ cents per hour to 22½ cents per hour for the season of 1932. They felt that if this was done they could compete with men and could secure employment."

The Seventh Biennial Report of the Minimum Wage Department of the Workmen's Compensation Bureau of North Dakota for the biennium ending June 30, 1932, states on page 4:

> "Since the beginning of the current economic depression and continuing through to the present time there has been considerable agitation, particularly from employers of the public housekeeping and mercantile occupations, for reduced minimum wage schedules, many employers claiming that if forced to comply with the provisions of the minimum wage law they would necessarily be put out of business. Others replied to communications from this office that rather than pay the required minimums they would discontinue employing women workers entirely, and

workers are also affected by such legislation in that their wages are reduced to make up for increases in minimum wages.[3] It is significant that in certain provinces in Canada the displacement of women by men caused the passage of laws providing that a man who took the employment of a woman should receive the woman's minimum wage.[4]

It is not uncommon for men's labor unions to sponsor so-called "protective" legislation for women in order to protect them out of their jobs or else restrict their competition.[5] In this connection it is interesting to observe that in the brief filed here by the Attorney General of

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[3] See "The Need for Federal Labor Laws" by Elinore Morehouse Herrick, The Nation, July 10, 1935, p. 49, Col. 1; See also article by same person in New York Times Magazine, March 25, 1934, p. 16.

[4] The Year-Book of the International Labor office, 1934-35, states on page 193:

> "The Year-Book for 1933 drew attention to the peculiar situation which had arisen in Canada, where, as a result of the economic depression, *women workers for whom minimum wage rates had been fixed by legislation in most of the provinces were being replaced by unprotected workers of the other sex.* This situation has had a number of noteworthy consequences. For example, with a view to remedying the prejudice caused to female labour by the competition of the other sex and in order not to hinder the placing of women, steps were taken in 1933 to readjust temporarily the minimum rates fixed for women, which were reduced by about 10 per cent. generally and by 15 per cent. in certain cases. In 1934, a much more favourable measure was adopted in five provinces, which prohibited the employment of men at a lower rate than women: the Women's Minimum Wage Acts of British Columbia, Manitoba, Ontario, Quebec and Saskatchewan were amended by the insertion of a provision stipulating that when minimum wages are fixed for women, no male worker may be employed on the same work for a lower wage." (Italics are ours.)

[5] Bulletin No. 66-I, Women's Bureau, U. S. Dept. of Labor, pp. 66, 107, 114.

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place male help in their stead, no legal wage having been established for the latter.

See also: "Harvard 'Explains'", by Gardner Jackson in The Nation, February 19, 1930, p. 212; "Harvard Scrubwomen", Boston Herald, January 31, 1930, p. 16; and Editorial, Los Angeles Times, January 13, 1933, part 2, p. 4.

Ohio as amicus curiae in support of the petition for certiorari, he suggests the effect of Minimum Wage legislation for women on men's opportunities for employment. He states that the employment of women and minors at less wages than men will accept has resulted considerably in the replacement of men in industry by women and minors and that this result has contributed in some degree to the unemployment problem confronting the nation. He asks the Court to take judicial notice of the fact that the unemployment of men and likewise the difficulty of securing employment for them in industries in which women and minors have replaced them, has caused a drain upon the public treasuries of the nation, states and municipalities in the form of relief (pages 24 and 25). The Attorney General of New York in his factual brief for petitioner states (p. 24) that in many cases "women have been employed to replace men or to work with them in the same occupation because they could perform the work as well as men or better and could be hired at lower wages". If the unemployment among men is created by women undercutting them it is no solution of the economic problem to handicap women with a minimum wage in order that men may undercut them. One class of American citizen is just as much entitled to employment as another class. The limited opportunities of women in the industrial world as everywhere else, often force women to offer their services at lower rates than men do. When prejudice, union rules, and legal restrictions are relaxed sufficiently to admit women to all callings which they are capable of following, they will undoubtedly be able to demand higher pay. The teaching profession was underpaid for years because it was practically the only profession open to women. As soon as educated women began to find opportunities in other fields, teachers' salaries improved. Women in business and the professions know the temptation of overcom-

ing prejudice by lowering charges and fees. It is really not strange that each group of workers opposes the entry of women into its ranks. The remedy is a matter of opening all doors, not in weighting the scales still further against the woman worker.

Now the world is afflicted with a depression of unprecedented scope. Jobs have become scarce and the idea occurs to people throughout the world that the newest additions to the ranks of workers have caused it and must be eliminated or curbed. Undoubtedly wages would rise, at least temporarily, if any large group of workers could be eliminated from competition just as farm prices would rise when production is artifically curtailed. If all *men* were driven out of industry or even seriously hampered, it would doubtless be easier for *women* to find better jobs. In recent years many countries have tried to help the labor market by preventing work by foreigners and restricting immigration. They have also placed severe restrictions upon the work of women with the same object. And so it is that the women of the world have reached a point where there is danger of their progress being halted for reasons of temporary expediency.[6]

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[6] Report of the Fourth Conference of the Open Door International, 1935, p. 28:

"A most sinister and startling development of the last two years is the spread of this idea that it is justifiable to deprive women of work in the interests of the male worker, the application of this idea to single women, and its acceptance by governments of states claiming to be enlightened and civilized. The idea is seen in its naked ugliness in the many laws and orders intended to reduce the unemployment of men by aggravating that of women. Before our Prague Conference a beginning had already been made in Germany when the permanent appointment of women in Government service before the age of 35 was forbidden. To take other quite recent examples: In Luxembourg, by a Grand Ducal Decree of 14th April, 1934, a special permit is required before a public or private administrative department can appoint a female clerical staff, or retain a woman in employment after marriage. Yugoslavia, by an order of 31st March, 1934, has fixed the proportion of women higher

But we submit that the Constitution of the United States is still supreme in the United States and that the principles of constitutional liberty apply to women as well as to men. The Nineteenth Amendment gave them full political rights. The *Adkins* decision following closely thereafter gave them assurance that their fundamental liberties are recognized by the Courts. It may be said that their *Magna Charta* is found in the words of Mr. Justice Sutherland:

> ". . . We cannot accept the doctrine that women of mature age, *sui juris* require or may be subjected to restrictions upon their liberty of contract which could not lawfully be imposed in the case of men under similar circumstances". *Adkins* v. *Children's Hospital*, *supra*, p. 553.

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grade postal servants at 30%, intermediate grade 25%, and lower grade 10%. The Netherlands Minister of the Interior has recommended Local Authorities (Circular dated 19th March, 1934) to replace women by men in posts not specifically requiring female labour. In Germany an Order of August 26th, 1934, gives priority of employment to male workers over 40 and to women who have family responsibilities. A German Act of July 8th, 1934, forbids married women doctors to practice except when this is absolutely necessary for the maintenance of their families. By another German Order of May 17th, 1934, women farm servants and agricultural workers are not allowed to be employed in canning factories, hotels, restaurants and cafes. An Italian legislative decree of November 28th, 1933, empowers administrative departments to exclude women or to limit their number, and, under this, percentage limits for women have been fixed at 5 for the higher grade, 15 for the intermediate, and 20 for the lower. Under a circular of the Belgian Council of Ministers of August 12th, 1934, all posts in public administrative departments, including typists and shorthand typists, are to be reserved for men so long as qualified candidates are available.

"In Italy under powers delegated to federations of employers and workers many corporate agreements have been made to restrict the employment of women. There are signs that similar dangerous delegated powers may be given to employers and workers in other countries."

It is urged that this Court uphold the Court of Appeals of New York in its preservation of the liberties of women.

Respectfully submitted,

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Brooklyn-Manhattan Transit Women's League,
Business Women's Legislative Council of California, and
Women's Equal Opportunity League of New York.

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